

BellSouth Telecommunications, Inc.

Legal Department

1600 Williams Street
Suite 5200
Columbia, SC 29201

patrick.turner@bellsouth.com

Patrick W. Turner

General Counsel-South Carolina

803 401 2900
Fax 803 254 1731

March 9, 2004

The Honorable Bruce Duke
Executive Director
Public Service Commission of SC
Post Office Drawer 11649
Columbia, South Carolina 29211

Re: Petition of LEVEL 3 COMMUNICATIONS, LLC for Arbitration
Pursuant to Section 252(b) of the Communications Act of 1934, as
amended by the Communications Act of 1996, and Pursuant to S.C. Code
Ann. § 58-9-280(D) (1976), as Amended for Rates, Terms and Conditions
with BellSouth Telecommunications, Inc.
Docket No.: 2004-44-C

Dear Mr. Duke:

Enclosed for filing are the original and one paper copy of BellSouth Telecommunications, Inc.'s ("BellSouth's") Response to Level 3 Communications, LLC's Petition for Arbitration in the above-referenced matter. Also enclosed is a CD-Rom that contains a redlined copy of the interconnection agreement that comprises Exhibit A to BellSouth's Response.

As indicated on the enclosed Certificate of Service, I am providing counsel for the Parties and counsel for the Commission's Staff with: copies of this letter, BellSouth's Response, and BellSouth's Issues Matrix (which is Exhibit B to BellSouth's Response) by email; and copies of this letter and a CD-Rom that contains a redlined copy of the interconnection agreement that comprise Exhibit A to BellSouth's Response by U.S. Mail.

Sincerely,



Patrick W. Turner

PWT/nml

Enclosure

cc: Parties of Record

PC Docs # 530264

BEFORE THE
SOUTH CAROLINA PUBLIC SERVICE COMMISSION

Petition of)	
)	
LEVEL 3 COMMUNICATIONS, LLC)	
)	
For Arbitration Pursuant to Section 252(b) of the)	Docket No. 2004-44-C
Communications Act of 1934, as amended by the)	
Telecommunications Act of 1996, and Pursuant to)	
S. C. Code Ann. § 58-9-280(D) (1976, as amended))	
for Rates, Terms and Conditions with BellSouth)	
Telecommunications, Inc.)	
_____)	

**BELLSOUTH TELECOMMUNICATIONS, INC.'S RESPONSE TO
LEVEL 3 COMMUNICATIONS, LLC'S PETITION FOR ARBITRATION**

Pursuant to 47 U.S.C. § 252(b)(3), BellSouth Telecommunications, Inc. ("BellSouth"), responds to the Petition for Arbitration ("Petition") filed by Level 3 Communications, LLC ("Level 3") and states the following:

BACKGROUND

Sections 251 and 252 of the Telecommunications Act of 1996 ("1996 Act") encourage negotiations between parties to reach local interconnection agreements. Section 251(c)(1) of the 1996 Act requires incumbent local exchange companies to negotiate the particular terms and conditions of agreements to fulfill the duties described in Sections 251(b) and 251(c)(2)-(6).

As part of the negotiation process, the 1996 Act allows a party to petition a state commission for arbitration of unresolved issues.¹ The petition must identify the issues resulting

¹ 47 U.S.C. § 252(b)(2).

from the negotiations that are resolved, as well as those that are unresolved.² The petitioning party must submit along with its petition “all relevant documentation concerning: (1) the unresolved issues; (2) the position of each of the parties with respect to those issues; and (3) any other issues discussed and resolved by the parties.”³ A non-petitioning party to a negotiation under this section may respond to the other party’s petition and provide such additional information as it wishes within 25 days after a commission receives the petition.⁴ The 1996 Act limits a commission’s consideration of any petition (and any response thereto) to the unresolved issues set forth in the petition and in the response.⁵

Through the arbitration process, a commission must resolve the unresolved issues ensuring that the requirements of Sections 251 and 252 of the 1996 Act are met. The obligations contained in those sections of the 1996 Act are the obligations that form the basis for negotiation, and if negotiations are unsuccessful, then form the basis for arbitration. Issues or topics not specifically related to these areas are outside the scope of an arbitration proceeding. Once a commission has provided guidance on the unresolved issues, the parties must incorporate those resolutions into a final agreement to be submitted to a commission for approval.⁶

BellSouth and Level 3 previously entered into an Interconnection Agreement (“Agreement”) in South Carolina which expired on December 31, 2003. Although BellSouth and Level 3 negotiated in good faith as to the terms and conditions for a new Agreement, the parties have been unable to reach agreement on some issues and, as a result, Level 3 filed this

² See generally, 47 U.S.C. §§ 252 (b)(2)(A) and 252 (b)(4).

³ 47 U.S.C. § 252(b)(2).

⁴ 47 U.S.C. § 252(b)(3).

⁵ 47 U.S.C. § 252(b)(4).

⁶ 47 U.S.C. § 252(a).

Petition. BellSouth responds below to each of the separately numbered paragraphs of Level 3's Petition:

I. THE PARTIES

1. BellSouth avers that the referenced Order of the South Carolina Public Service Commission ("Commission") speaks for itself and requires no response from BellSouth. BellSouth lacks information sufficient to form a belief as to the remaining allegations in Paragraph 1 of the Petition. Those remaining allegations, therefore, are denied.

2. The allegations in Paragraph 2 of the Petition require no response from BellSouth.

3. BellSouth admits the allegations in Paragraph 3 of the Petition.

4. BellSouth admits the allegations in Paragraph 4 of the Petition.

II. THE INTERCONNECTION NEGOTIATIONS AND RESOLVED ISSUES

5. BellSouth admits that the Petition was timely filed. BellSouth agrees that the parties have been engaged in good faith negotiations over many sessions and have resolved a significant number of issues. Although Level 3 no longer is entitled to mediation as a matter of right, BellSouth has no objection to voluntarily submitting to non-binding mediation under appropriate circumstances. BellSouth denies any remaining allegations in Paragraph 5 of the Petition.

6. BellSouth denies the allegations in Paragraph 6 of the Petition to the extent that Level 3 asks the Commission to approve the proposed interconnection agreement attached to Level 3's Petition. Throughout negotiations, BellSouth has maintained the official copy of the Interconnection Agreement and, in furtherance of that responsibility, attaches as Exhibit "A" the official copy of the Interconnection Agreement reflecting the resolved and unresolved issues for

the Commission to consider. BellSouth denies any remaining allegations in Paragraph 6 of the Petition.

7. BellSouth admits that a significant number of issues have been resolved through good-faith negotiations between the Parties, including entire attachments of the Interconnection Agreement. The resolved and unresolved provisions of the Interconnection Agreement are accurately reflected in Exhibit “A” to this Response. BellSouth denies any remaining allegations in Paragraph 7 of the Petition.

III. JURISDICTION

8. BellSouth avers that the referenced provisions of the 1996 Act speak for themselves and require no response from BellSouth. BellSouth agrees that February 13, 2004 is the deadline for the filing of the Petition and that June 6, 2004 is the last day of the nine-month period described in 47 U.S.C. §252(b)(4)(c). BellSouth denies any remaining allegations in Paragraph 8 of the Petition.

IV. APPLICABLE LEGAL STANDARDS

9. BellSouth avers that the referenced provisions of the 1996 Act and Rules/Orders of the Commission speak for themselves and require no response from BellSouth. BellSouth denies any remaining allegations in Paragraph 9 of the Petition.

10. BellSouth admits that the ultimate decision of the Commission must be consistent with the requirements of the 1996 Act. BellSouth denies any remaining allegations in Paragraph 10 of the Petition.

V. UNRESOLVED ISSUES

11. Although not reflected in separately numbered paragraphs, pages 6 through 44 of the Petition set forth the unresolved issues and the Parties’ positions, as understood by Level 3,

on those unresolved issues. BellSouth denies that pages 6 through 44 of the Petition set forth BellSouth's positions in a complete or accurate manner. Consistent with § 252(b)(3) of the 1996 Act, BellSouth has prepared an Issues Matrix, attached hereto as Exhibit "B," which sets forth a neutral wording of the issue to be decided by the Commission and a summary of BellSouth's positions on each of the unresolved issues identified in the Petition. BellSouth denies any remaining allegations in pages 6 through 44 of the Petition.

VI. CONCLUSION

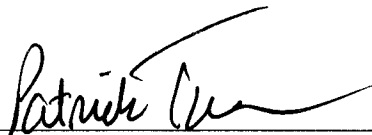
12. BellSouth denies the allegations in the Conclusion section of the Petition (page 45). BellSouth affirmatively avers that the Commission should reject Level 3's positions on each and every one of the issues set forth herein and, instead, adopt BellSouth's positions on each and every issue set forth herein.

13. BellSouth notes that national and state telecommunications law and policy is in a state of flux and could potentially impact even those provisions of the parties' Interconnection Agreement that are not currently in dispute. In the event changes and/or clarifications of the law impact the disputed and/or undisputed provisions of the parties' Interconnection Agreement (and the parties are unable to agree on how any such changes and/or clarifications are to be incorporated into the parties' Interconnection Agreement), BellSouth reserves the right to seek further redress from the Commission on those issues.

14. BellSouth denies each and every allegation in the Petition not expressly admitted herein, and demands strict proof thereof.

Respectfully submitted, this 9th day of March 2004.

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Patrick W. Turner", written over a horizontal line.

Patrick W. Turner
1600 Williams Street, Suite 5200
Columbia, South Carolina 29201
(803) 401-2900

R. DOUGLAS LACKEY
E. EARL EDENFIELD JR.
BellSouth Center – Suite 4300
675 West Peachtree Street, N.E.
Atlanta, Georgia 30375
(404) 335-0763

COUNSEL FOR BELLSOUTH
TELECOMMUNICATIONS, INC.

527671

SCPSC Docket No. 2004-44-C
BellSouth Response
Level 3 Petition for Arbitration
EXHIBIT A
March 9, 2004

EXHIBIT A – REDLINED
INTERCONNECTION
AGREEMENT -
PROVIDED ON CD

LEVEL 3 / BELL SOUTH ARBITRATION ISSUES MATRIX
SCPSC DOCKET NO. 2004-44-C

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELL SOUTH'S POSITION
1	<p>Is each Party required to bear financial responsibility for delivering its originating traffic to the interconnection point selected by Level 3?</p> <p>(Attachment 3, §§ 3.3.3, 4.3, 4.8, 7.1.2, 7.2)</p>	SEE THE LEVEL 3 PETITION	<p>Each party will bear the financial responsibility for delivering its originating traffic to the interconnection point that connects each party's network to the other party's network. When ordering two-way trunks from BellSouth, Level 3 should be required to pay the Commission's approved rates for such trunks.</p>
2	<p>What type of inter-carrier compensation, if any, is due for the exchange of Voice over Internet Protocol (VoIP) traffic (which Level 3 describes as Enhanced Applications Traffic)?</p> <p>(Attachment 3, §§ 7.2, 7.2.3.2.1, 7.4.1)</p>	SEE THE LEVEL 3 PETITION	<p>VoIP is currently being discussed in various outstanding FCC petitions including, but not limited to, Level 3's Forbearance Petition. Further, the FCC recently issued a ruling in the Petition for Declaratory Ruling that Pulver.com's Free World Dialup is neither telecommunications nor a telecommunications service and that the VoIP service provided in that petition is an interstate service not subject to state jurisdiction. BellSouth does not believe that the Commission is the appropriate forum to decide any issues at this time with respect to VoIP. In the event the Commission decides that this issue is ripe for arbitration in a §252 proceeding, the Commission should treat VoIP traffic like any other call for inter-carrier compensation purposes. As such, if VoIP traffic touches the Public Switched Telephone Network ("PSTN"), the traffic should be billed and treated like any other call that is carried on the PSTN (<i>i.e.</i>, interLATA and intraLATA switched access charges apply as appropriate or local inter-carrier compensation rates apply).</p>

EXHIBIT B

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
3	Does the FCC's <i>ISP Remand Order</i> establish compensation for all locally-dialed (7 and 10 digit dialing) Internet Service Provider (ISP) traffic, even if the local number dialed has a virtual NXX and, if so, what is that rate? (Attachment 3, §§ 7.1.2, 7.2, 7.2.2.2)	SEE THE LEVEL 3 PETITION	Yes. Compensation for ISP traffic has been litigated thoroughly by both state commissions and the FCC. More importantly, the FCC has specifically addressed compensation for this traffic in its <i>ISP Remand Order</i> which still governs the compensation between LECs for ISP traffic. The FCC's <i>ISP Remand Order</i> (paragraph 13) specifically addresses the issue raised by Level 3 and defines ISP traffic as "delivery of calls from one LEC's end-user customer to an ISP in the same local calling area that is served by a competing LEC."
4	What rate for ISP Traffic should apply, if any, under the Parties' January 1, 2001 Interconnection Agreement, including any amendments thereto, beginning January 1, 2004?	SEE THE LEVEL 3 PETITION	This issue is not appropriate for a §252 arbitration as Level 3 seeks relief and or an advisory opinion under the terms of the <i>prior</i> Interconnection Agreement. To the extent the Commission decides to address this issue, either bill-and-keep or \$0.0007, with growth caps continued and effective on ISP traffic from the initial 2001 caps, would be the appropriate rate.
5	Does the FCC's <i>ISP Remand Order</i> impose a growth cap on the total Minutes of Use (MOU) of ISP Traffic for which inter-carrier compensation is due for the year 2004 and subsequent years? (Attachment 3, §§ 7.2.2, 7.2.2.2)	SEE THE LEVEL 3 PETITION	Yes. The FCC's <i>ISP Remand Order</i> sets forth 10% growth caps for usage during years 2001 and 2002. The caps are then left at a ceiling equal to year 2002 growth in order to ensure that growth does not undermine the FCC's goal of limiting inter-carrier compensation and beginning a transition toward bill-and-keep.
6	Where a Party provides elements of its own SS7 network (or leases elements from a third party provider), can the other Party charge for SS7 signal messages and, if so, at what rate? (Attachment 3, § 5.2)	SEE THE LEVEL 3 PETITION	Yes. BellSouth should be compensated for Level 3's use of BellSouth's CCS7 network for non-local intrastate calls pursuant to BellSouth's Intrastate CCS7 Access Tariff. Such tariffs were filed and approved by the Commission.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
7	<p>Should BellSouth establish standard processes and rates for all routine network modifications, including at a minimum those routine network modifications listed in the FCC's <i>Triennial Review Order</i> that BellSouth performs for any carrier or itself?</p> <p>(Attachment 2, §§ 1.8.2, 2.8.6.2, 5.2.4, 6.2.5, 6.4.2)</p>	SEE THE LEVEL 3 PETITION	<p>Not for all routine network modifications. Currently, BellSouth has methods and procedures available for over 80% of the modifications requested. However, the remaining percentage of requests for modifications may not be as predictable, or may contain too many variables, to fit into a previously defined modification parameter. BellSouth must preserve the right to price and quote such modifications on an inquiry basis to ensure cost recovery through either individual-case-basis costs, or special construction costs. BellSouth has provided to Level 3 a copy of BellSouth's December 2003 revision of the Unbundled Loop Modification guide that incorporates the language of the TRO on the topic of routine network modifications. To the extent that Level 3 has provided any feedback to the guide, Level 3 has not proven any deficiencies in BellSouth's current process (a non-discriminatory access process that BellSouth uses for its own end users), nor has Level 3 identified any specific modifications for which BellSouth should develop methods and procedures.</p>
8	<p>Should Level 3 be required to bring all non-billing disputes solely to the Commission for resolution or should other competent forums remain available?</p> <p>(GT&C, §§ 10.1, 10.3, 10.1.2, 10.5)</p>	SEE THE LEVEL 3 PETITION	<p>BellSouth has had experience with commercial arbitration in the resolution of disputes under interconnection agreements negotiated pursuant to 47 USC §252 and has found such arbitration to be expensive, unduly lengthy in nature, and ultimately inconsistent with state regulatory policies. The 8th Circuit Court of Appeals, in <i>Iowa Utilities Bd.</i> ruled that the Commission is charged with the authority to resolve disputes relating to interconnection agreements and BellSouth should not be forced to waive its right to seek resolution of such issues before the Commission.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
9	If Level 3 consists of two or more separate affiliates, should each of those affiliates be jointly and severally liable for obligations under the Agreement if the affiliate(s) will not provide services and will not order any services under the interconnection agreement?	RESOLVED	RESOLVED
10(a)	Should the Agreement provide that it is "indivisible and non-severable" such that all of the provisions of the Agreement must be valid or the entire Agreement is invalid? (GT&C, § 16)	SEE THE LEVEL 3 PETITION	Yes. The Interconnection Agreement is negotiated in separate attachments that govern the various rates, terms, and conditions for the services and products offered under the Agreement, all of which are referenced and governed by the general terms and conditions of the Agreement. Therefore, no one attachment is a separate agreement and should be considered a part of the whole and not severable from the remainder of the Agreement. However, if a section or attachment of the Agreement becomes unlawful by its terms, then that section or attachment can be amended, by mutual consent of the Parties, to make it lawful.
10(b)	How does severability impact adoptions under §252(i) of the 1996 Act. (GT&C, § 16)	SEE THE LEVEL 3 PETITION	Severability does not impact adoptions under §252(i) and FCC Rule 51.809.
11	Are BellSouth's deposit policies discriminatory or anticompetitive? (Attachment 7, §§ 1.8, 1.8.1, 1.8.2, 1.8.3, 1.8.4, 1.8.5)	SEE THE LEVEL 3 PETITION	No. BellSouth's deposit policies are neither discriminatory nor anti-competitive. BellSouth's deposit policies are consistent with sound business practices and are at parity among CLECs and with BellSouth's retail deposit policies.

EXHIBIT B

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
12	(GT-1) When a definition in the Agreement is modified as a result of a change in the law, should the definition be deemed amended automatically, or should the Parties follow the change of law provisions in modifying the Agreement? (GT&C, Definitions)	SEE THE LEVEL 3 PETITION	Yes. The definitions, like the Interconnection Agreement itself, are negotiated to comply with current law unless negotiated otherwise by the Parties. The definitions in this Agreement reflect what they mean as of the effective date of this Agreement and, if a change of law affecting any definition occurs, should be modified through the Agreement's change of law provisions. Automatic amendments could result in inconsistencies in the different parts of the Agreement that could be effected by a single change of law.
13	(1-1) What language, if any, should govern the use of Customer Proprietary Network Information (CPNI)?	RESOLVED	RESOLVED
14	(1-2) Does either Party have a proprietary right in a telephone number and, if so, is that right reciprocal? (Attachment 1, § 3.6)	SEE THE LEVEL 3 PETITION	The terms of Attachment 1 govern the situation where Level 3 resells BellSouth's service. In a resale situation, BellSouth provides service to Level 3's end-user in the same manner in which BellSouth would provide that service to BellSouth's end user. While neither Party has a proprietary right in the telephone number, BellSouth is the underlying service provider and needs to have the flexibility to unilaterally reassign telephone numbers when the need arises.
15	(1-3) Should BellSouth be permitted a reservation of rights to change a telephone number when BellSouth deems it necessary? (Attachment 1, § 3.6)	SEE THE LEVEL 3 PETITION	The terms of Attachment 1 govern the situation where Level 3 resells BellSouth's service. In a resale situation, BellSouth provides service to Level 3's end-user in the same manner in which BellSouth would provide that service to BellSouth's end user. In a resell situation, BellSouth is the underlying service provider and needs to have the flexibility to unilaterally reassign telephone numbers when the need arises. In a resell environment, there is no need for that ability to be reciprocal, as Level 3 does not resell its service.

EXHIBIT B

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
16	(1-4) What language should apply, if any, to the unauthorized use of resold services? (Attachment 1, § 3.13)	RESOLVED	RESOLVED
17	(1-5) What restrictions should apply, if any, to the Parties marketing of customers during a service call.	RESOLVED	RESOLVED
18	(2-1) In the event the FCC, a court of competent jurisdiction, or Commission determines that BellSouth is no longer required to provide a specific UNE, what transition period or process, if any, should apply before BellSouth can rearrange or disconnect an affected service? (Attachment 2, § 1.8)	SEE THE LEVEL 3 PETITION	The TRO has set forth new rules and regulations with respect to BellSouth's obligations under the Act to unbundle certain elements in accordance with Section 251 of the Act. BellSouth has proposed language that permits BellSouth, while acting in accordance with the new rules set forth in the TRO, to immediately discontinue providing service at UNE pricing for those elements no longer required to be unbundled under section 251 of the Act. Therefore, BellSouth is entitled to immediately stop offering UNE pricing for elements where CLECs are no longer impaired.
19	(2-2) In the event of a conflict between laws, which law controls?	RESOLVED	RESOLVED
20	(2-3) Is BellSouth obligated to provide access to loops in fiber-to-the-home (FTTH) overbuild areas and, if so, should BellSouth's standard provisioning intervals apply? (Attachment 2, § 2.1.1.4)	SEE THE LEVEL 3 PETITION	The Act and FCC Rules, as amended by the TRO speak for themselves. BellSouth has implemented the TRO with respect to FTTH overbuilds and in doing so, BellSouth is not obligated to provide unbundled access pursuant to Section 251 to certain elements in an FTTH overbuild situation. For those same reasons, standard provisioning intervals should not apply and the Parties should negotiate a provisioning interval based on the specific circumstances of the project.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
21	<p>(2-4) Is BellSouth obligated to provide access to loop test points for UNEs on a non-discriminatory basis?</p> <p>(Attachment 2, § 2.1.4)</p>	SEE THE LEVEL 3 PETITION	<p>No. BellSouth provides test points within its network on designed services. These test points are not located within the CLEC's collocation space and therefore BellSouth is not obligated to provide access to the CLEC. The CLEC can access the loop via a cross-connect within its collocation space or at the end user premise to perform physical testing of the loop. In addition, the parties have already agreed to the language concerning test points, which addresses every issue raised by Level 3.</p>
22	<p>(2-5) Is BellSouth obligated to provide unbundled DS3 transport over fiber-optic facilities?</p> <p>(Attachment 2, § 2.3.8)</p>	SEE THE LEVEL 3 PETITION	<p>No, but that does not mean that BellSouth objects to providing services to CLEC end users over fiber facilities. Currently, BellSouth does not have the capability for a CLEC to choose the type of transport facility for its end user as a CLEC may do in the loop environment (through the LFACS database). BellSouth does not specify the type of facility to be used for its own end users, nor does BellSouth restrict CLEC end users to being placed only on copper facilities. End users of both BellSouth and CLECs will be placed on whatever facilities are available. In the event that a specific type of facility is not available, and if a CLEC wishes to pay BellSouth compensatory construction costs for a special placement, that option is available.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
23	(2-6) Should the rates charged by BellSouth for performing line conditioning be cost-based under Section 252(d)(1) of the Act? (Attachment 2, § 2.5.1, 2.5.4)	SEE THE LEVEL 3 PETITION	Any copper loop being ordered by a CLEC that has over 6,000 feet of combined bridged tap will be modified, upon request from the CLEC, so that the loop will have a maximum of 6,000 feet of bridged tap. This modification will be performed at no additional charge to CLEC. Line conditioning requests for the removal of bridged tap on a copper loop, where the removal serves no network design purpose and will result in a combined level of bridged tap between 2,500 and 6,000 feet, will be performed at the rates set forth in Exhibit A of Attachment 2. A CLEC may request removal of any unnecessary and non-excessive bridged tap (bridged tap between 0 and 2,500 feet that serves no network design purpose), at rates pursuant to BellSouth's Special Construction Process contained in BellSouth's FCC No. 2 as mutually agreed to by the Parties. BellSouth is only required to perform line conditioning that it performs for its own xDSL customers and is not required to create a superior network for CLECs. To the extent that BellSouth is not required to perform the requested line conditioning, the applicable rates should not be subject to this arbitration as the service is not a §251 requirement.
24	(2-7) Is BellSouth required to remove load coils on copper loops or sub-loops that are more than 18,000 feet from BellSouth's central office?	RESOLVED	RESOLVED
25	(2-8) Should the rates charged by BellSouth for removing bridged tap be cost-based under Section 252(d)(1) of the Act?	COMBINED WITH ISSUE 23	COMBINED WITH ISSUE 23
26(a)	(2-9) What are the Parties' obligations regarding unbundled sub-loops in multi-tenant environments and multi-unit premises? (Attachment 2, § 2.8.2.1)	SEE THE LEVEL 3 PETITION	The parties are obligated to provide access to unbundled sub-loops in multi-tenant environments and multi-unit premises at "accessible terminals" as defined by the FCC.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
26(b)	(2-9) What are the Parties' obligations regarding unbundled intra-building cabling in multi-tenant environments and multi-unit premises? (Attachment 2, § 2.8.2.1)	SEE THE LEVEL 3 PETITION	The parties are obligated to provide access to unbundled intra-building cabling in multi-tenant environments and multi-unit premises at "accessible terminals" as defined by the FCC.
27	(2-10) Is BellSouth obligated to provide unbundled access to network terminating wire and, if so, is that obligation reciprocal? (Attachment 2, § 2.8.3)	SEE THE LEVEL 3 PETITION	Yes. BellSouth provides access to network terminating wire at "accessible terminals" as defined by the FCC. While BellSouth believes that network terminating wire owned by the CLEC should be accessible by BellSouth, currently there appears to be no legal obligation on the CLEC to provide such access.
28(a)	(2-11) What limits, if any, should be placed on the amount of dark fiber loops that BellSouth can reserve for its own use? (Attachment 2, §§ 2.8.6.3.1, 6.4.3.1)	SEE THE LEVEL 3 PETITION	BellSouth maintains dark fiber for its own use in the following scenarios: (1) it is used by BellSouth for maintenance and repair purposes; (2) it is designated for use pursuant to a firm order placed by another customer; (3) it is restricted for use by all carriers, including BellSouth, because of transmission problems or because it is scheduled for removal due to documented changes to roads and infrastructure; or (4) BellSouth has plans to use the fiber within a two-year planning period.
28(b)	(2-11) What limits, if any, should be placed on the amount of dark fiber transport that BellSouth can reserve for its own use? (Attachment 2, §§ 2.8.6.3.1, 6.4.3.1)	SEE THE LEVEL 3 PETITION	As long as BellSouth is maintaining dark fiber for its own use consistent with the parameters set forth in subsection (a) above, there should be no applicable time limits. Further, the CLEC can always challenge BellSouth's maintenance procedure in any instance where access to dark fiber has been denied based on one of the reasons set forth above.
29	(2-12) Should a dispute regarding whether Level 3's advanced services equipment significantly degrades other services be resolved in accordance with governing FCC rules, including rule 51.233?	RESOLVED	RESOLVED

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
30	(2-13) In the event an audit reveals Level 3's enhanced extended links (EELs) are in non-compliance with the Agreement, is Level 3 responsible for the total cost associated with the audit?	RESOLVED	RESOLVED
31	(2-14) Are all network elements provided under the terms of the Agreement subject to the pricing standards of §252(d)(1) of the 1996 Act? (Attachment 2, §§ 5.4.1, 5.4.2)	SEE THE LEVEL 3 PETITION	All services provided under this Agreement are pursuant to the rates, terms, and conditions in this Agreement. Level 3's requested language is overly broad and could be read to imply that rates for elements provided are deemed automatically changed if a state commission issues new rates on services pursuant to §252(d)(1) of the 1996 Act.
32	(2-15) Is BellSouth required to terminate its dedicated transport facilities to a reverse collocation arrangement within the same LATA? (Attachment 2, § 6.1.1.1)	SEE THE LEVEL 3 PETITION	No. Level 3's position appears to BellSouth to be an attempt by Level 3 to circumvent the FCC's TRO finding that interoffice dedicated transport is limited to transport between BellSouth switches or wire centers (<i>TRO</i> , ¶359), and only if available. In attempting to define 'reverse collocation' in an overly broad manner, Level 3 is trying to redefine the endpoints of dedicated transport beyond the FCC's Rules.
33	(2-16) Should BellSouth be required to provide Level 3 with information in addition to the rejection notice when BellSouth rejects an order from Level 3 for dark fiber transport and, if so, what additional information should BellSouth be required to provide? (Attachment 2, § 6.4.3.3)	SEE THE LEVEL 3 PETITION	No. BellSouth understands this issue to revolve around information regarding BellSouth's reservation of dark fiber for its own purposes. Level 3's position presupposes that BellSouth will not do so. BellSouth should not be required to undertake the additional work necessary to provide the additional information requested.
34	(2-17) Is BellSouth required to provide non-discriminatory access to its 911 and E911 databases on an unbundled basis?	RESOLVED	RESOLVED

EXHIBIT B

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
35	(3-1) Should the language regarding Level 3's routing of Toll Free calls be reciprocal? (Attachment 3, § 4.13.4.1.2)	SEE THE LEVEL 3 PETITION	Consistent with the language proposed by BellSouth for the referenced Attachment section, and Level 3's proposed amendments to that language, BellSouth agrees that the routing of toll free calls should be reciprocal.
36	(7-1) What requirements should apply when Level 3 establishes a Master Account? (Attachment 7, § 1.2)	SEE THE LEVEL 3 PETITION	The requirements to establish a Master Account are outlined in the CLEC Start-Up Guide, which has been provided to Level 3. This guide sets forth the CLECs' requirements for establishing a Master Account in a non-discriminatory manner. Level 3 should be required the same procedures as all other CLECs.
37(a)	(7-2) Should Level 3 be required to pay BellSouth both disputed and non-disputed charges, even in those instances where Level 3 disputes charges? (Attachment 7, §§ 1.2.2, 1.3)	SEE THE LEVEL 3 PETITION	Level 3 has the ability to pay all charges and dispute its invoices or pay only the undisputed amounts of its invoices from BellSouth. Nothing requires Level 3 to pay charges when it has filed, in good faith, a Billing Adjustment Request (BAR) form with BellSouth to request adjustment of a credit on its bills and has invoked the billing dispute process outlined in the Interconnection Agreement.
37(b)	(7-2) Should language regarding payment responsibilities be reciprocal? (Attachment 7, §§ 1.2.2, 1.3)	SEE THE LEVEL 3 PETITION	No. Level 3 does not bill BellSouth in the same format that BellSouth bills Level 3 and, thus, the payment responsibilities should not be reciprocal. Further, any specific payment responsibilities agreed to by the parties are appropriate in the context of Attachment 3 and not Attachment 7 since the only services in the agreement that BellSouth purchases from Level 3 are from Attachment 3.
38	(7-3) Should language regarding verification of tax exemption status be reciprocal? (Attachment 7, § 1.5)	SEE THE LEVEL 3 PETITION	No. Level 3 and BellSouth are not similarly situated in the context of collecting and passing through taxes on behalf of interconnecting carriers. Thus, it is inappropriate for language regarding verification of tax exemption status to be reciprocal.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
39(a)	(7-4) What rates apply to late payments under the Agreement and do those charges apply only to undisputed portions of the bill? (Attachment 7, § 1.6)	SEE THE LEVEL 3 PETITION	The late factor or late payment charge (LPC) is calculated as set forth in Section A2 of the General Subscriber Services Tariff, Section B2 of the Private Line Service Tariff or Section E2 of the Intrastate Access Tariff, as appropriate. As long as billing is marked in BellSouth's tracking system as disputed, LPCs are not generated on the disputed portion. However, if the dispute is ultimately resolved in BellSouth's favor, LPCs will be calculated and assessed from the payment due date.
39(b)	(7-4) Should language regarding late payments under the Agreement be reciprocal? (Attachment 7, § 1.6)	SEE THE LEVEL 3 PETITION	No. Level 3 does not bill BellSouth in the same format that BellSouth bills Level 3, and thus, the language regarding late payments should not be reciprocal. Further, any language regarding late payment responsibilities agreed to by the parties are appropriate in the context of Attachment 3 and not Attachment 7 since the only services in the agreement that BellSouth purchases from Level 3 are in attachment 3.
40	(7-5) Is BellSouth entitled to terminate or suspend, without prior notice and an opportunity to cure, Level 3's service for improper or illegal use of BellSouth's facilities? (Attachment 7, § 1.7.1)	SEE THE LEVEL 3 PETITION	Each Party should have the right to suspend or terminate service in the event it believes the other party is engaging in improper or illegal use of the other Parties facilities. Given the nature of the abuse (improper or illegal use) the suspension should be immediate.

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
41(a)	<p>(7-6) How much notice is BellSouth required to give Level 3 when BellSouth is suspending, or terminating, Level 3's service for non-payment and under what circumstances, if any, can Level 3 avoid suspension, or termination, once such notice is given?</p> <p>(Attachment 7, § 1.7.2)</p>	SEE THE LEVEL 3 PETITION	<p>If undisputed amounts are not paid by the bill date in the month after the original bill date, BellSouth will provide written notice to Level 3 that additional applications for service may be refused, that any pending orders for service may not be completed, and/or that access to ordering systems may be suspended if payment of such amounts (and all other amounts not in dispute that become past due before refusal, incompleteness or suspension), is not received by the fifteenth day following the date of the notice.</p> <p>In addition, BellSouth may, at the same time, provide written notice to Level 3 that BellSouth may discontinue the provision of existing services if payment of such amounts (and all other amounts not in dispute that become past due before discontinuance), is not received by the thirtieth day following the date of the initial notice.</p>
41(b)	<p>(7-6) After BellSouth rejects a billing dispute made by Level 3, can BellSouth suspend Level 3's service for Level 3's failure to pay the disputed amounts?</p> <p>(Attachment 7, § 1.7.2)</p>	SEE THE LEVEL 3 PETITION	<p>If BellSouth rejects a billing dispute, it is generally because the customer did not supply sufficient information for the issue to be investigated and resolved. BellSouth notifies the customer if a dispute is rejected, and it is the customer's responsibility to either resubmit the dispute with the necessary information or pay the charge immediately. Failure to pay or properly dispute can result in a suspension of service.</p>

EXHIBIT B

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
42	<p>(7-7) Can a Party withhold disputed amounts during the pendency of a dispute, even after the dispute has been rejected by the other Party, and, if so, is the Party absolved of any late payment charges if the dispute is ultimately resolved in that Party's favor?</p> <p>(Attachment 7, § 2.2)</p>	SEE THE LEVEL 3 PETITION	<p>If, after fully investigating a dispute, BellSouth determines that the dispute was improper, then BellSouth considers those amounts to be undisputed and payment would be owed immediately. In that circumstance, Level 3 could continue to withhold amounts due only as provided in the dispute resolution provisions of the Agreement. If the dispute is ultimately resolved in Level 3's favor, then no LPCs would apply.</p>
43	<p>(7-8) What rates apply to late payment charges under the Agreement and can a Party assess interest on those late charges or on disputed amounts resolved in that Party's favor?</p> <p>(Attachment 7, § 2.3)</p>	SEE THE LEVEL 3 PETITION	<p>The applicable LPCs are discussed in Issue 39 above.</p>
44	<p>(7-9) What timeframe should apply to a Party providing information necessary to establish a unique hosted RAO code?</p> <p>(Attachment 7, § 3.4)</p>	SEE THE LEVEL 3 PETITION	<p>BellSouth does not serve as an RAO host for Level 3; thus the language in Attachment 7, Section 3.4 of the Agreement does not currently apply to Level 3. Nevertheless, BellSouth's position is that a minimum of eight weeks is necessary to establish a unique hosted RAO code. This position is consistent with Telcordia's 60 calendar day requirement for RAO code assignments, which is found in Section 6, page 12 of Telcordia's RAO Code Guidelines.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
45	<p>(7-10) Is BellSouth required to process the conforming portion of EMI data in the event some of the data cannot be processed due to uncorrectable errors?</p> <p>(Attachment 7, § 3.15)</p>	SEE THE LEVEL 3 PETITION	<p>BellSouth does not serve as an RAO host for Level 3; thus the language in Attachment 7, Section 3.15 of the Agreement does not currently apply to Level 3. Nevertheless, BellSouth's position is that BellSouth should not be required to process the conforming portion of EMI data in the event some of the data cannot be processed due to uncorrectable errors. As an RAO host for another company, BellSouth may receive data packs destined to BellSouth as well as data packs destined to other companies. BellSouth must comply with Telcordia standards or these messages will never reach the intended recipient company. Telcordia rejects an entire pack even if only one record does not pass all of their edits. Therefore, BellSouth's incoming jobs must meet the same standards as Telcordia's.</p>
46	(7-11) Under what circumstances, if any, should BellSouth be required to assist Level 3 in determining the source of error messages on usage files?	RESOLVED	RESOLVED
47	<p>(11-1) Is the bona fide request (BFR) process required if BellSouth has provided or is required to provide a network element, interconnection option, or service option not covered under the agreement and is BellSouth required to utilize previous BFR information to expedite a response to a BFR?</p> <p>(Attachment 11, §§ 1.1, 1.1.1, 1.1.2, 1.2, 1.9)</p>	SEE THE LEVEL 3 PETITION	<p>Yes. A BFR is to be used when Level 3 makes a request of BellSouth to provide a new or modified UNE, interconnection option, or other service option pursuant to the Act that was not previously included in the Agreement. Depending on the circumstances, prior BFR information may, or may not, be used.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
48	<p>(11-2) Is BellSouth required to confer with Level 3 on a BFR submission and inform Level 3 of prior, similar BFR requests?</p> <p>(Attachment 11, § 1.3)</p>	SEE THE LEVEL 3 PETITION	<p>BellSouth has absolutely no objection to meeting with Level 3 regarding any BFR submission by Level 3. However, other CLEC's BFR submissions are proprietary (and possibly CPNI), thus BellSouth will not discuss that information with Level 3. That said, a BFR request by another CLEC that results in a service being offered to that CLEC will generally be made a part of the BellSouth/CLEC interconnection agreement (usually as an amendment). Thus, the rates, terms, and conditions are filed with the Commission and available publicly for review by Level 3. Thus Level 3's proposal is improper and unnecessary.</p>
49	<p>(11-3) If BellSouth has provided or is required to provide a network element, interconnection option, or service option not available under this Agreement, may BellSouth provide a preliminary analysis and, if so, how much time does BellSouth have to provide said preliminary analysis?</p> <p>(Attachment 11, §§ 1.5, 1.6, 1.10)</p>	SEE THE LEVEL 3 PETITION	<p>Yes. A BFR is to be used when Level 3 makes a request of BellSouth to provide a new or modified UNE, interconnection option, or other service option pursuant to the Act that was not previously included in the Agreement. Part of the BFR process includes a preliminary analysis, and the BellSouth provided language specifies the appropriate intervals for such preliminary analysis.</p>

ISSUE NO.	ISSUE DESCRIPTION	LEVEL 3'S POSITION	BELLSOUTH'S POSITION
50	(11-4) Under what circumstances will BellSouth provide a firm rate and implementation plan to Level 3 regarding a BFR? (Attachment 11, § 1.9)	SEE THE LEVEL 3 PETITION	If BellSouth has performed a preliminary analysis in accordance with the terms of the agreement, BellSouth shall propose a firm rate and implementation plan to Level 3 within ten (10) business days of receipt of Level 3's acceptance of the preliminary analysis for a network element, interconnection option or service option that is operational at the time of the request; within thirty (30) business days of receipt of Level 3's acceptance of the preliminary analysis for a new or modified network element, interconnection option or service option ordered by the FCC or Commission; and within sixty (60) business days of receipt of Level 3's acceptance of the preliminary analysis for a new or modified network element, interconnection option or service option not ordered by the FCC or Commission or not operational at the time of the request. If a preliminary analysis was not appropriate pursuant to the terms of the attachment, such timeframes above shall be from the receipt of an accurate BFR application instead of from Level 3's acceptance of the preliminary analysis.
51	(11-5) Do the dispute resolution procedures in the Agreement apply to the BFR process or BFR results and, if so, is BellSouth required to continue processing a BFR during the pendency of such a dispute?	RESOLVED	RESOLVED

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2004-44-C

IN RE: Petition of LEVEL 3 COMMUNICATIONS,)
 LLC for Arbitration Pursuant to Section 252(b))
 Of the Communications Act of 1934, as amended)
 By the Communications Act of 1996, and Pursuant)
 To S.C. Code Ann. § 58-9-280(D) (1976), as)
 Amended for Rates, Terms and Conditions with)
 BellSouth Telecommunications, Inc.)
_____)

CERTIFICATE OF SERVICE


This is to certify that the undersigned, Jeanette B. Mattison, is employed by the Legal Department for BellSouth Telecommunications, Inc. and that she has caused BellSouth Telecommunications, Inc.'s Response to Level 3 Communications, LLC's Petition for Arbitration in Docket No. 2004-44-C to be served on the following in the manner specified below this March 9, 2004.

F. David Butler, Esquire
General Counsel
South Carolina Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(Cover Letter, Response, and Exhibit B to Response by Electronic Mail; Cover Letter and CD-Rom containing a redlined copy of the interconnection agreement that comprises Exhibit A to Response by U.S. Mail)

Florence P. Belser, Esquire
Attorney
S. C. Public Service Commission
Post Office Box 11649
Columbia, South Carolina 29211
(PSC Staff)
(Cover Letter, Response, and Exhibit B to Response by Electronic Mail; Cover Letter and CD-Rom containing a redlined copy of the interconnection agreement that comprises Exhibit A to Response by U.S. Mail)

Faye A. Flowers, Esquire
Parker Poe Adams & Bernstein LLP
Post Office Box 1509
Columbia, South Carolina 29202-1509

(Cover Letter, Response, and Exhibit B to Response by Electronic Mail; Cover Letter and CD-Rom containing a redlined copy of the interconnection agreement that comprises Exhibit A to Response by U.S. Mail)


Jeanette B. Mattison

529787